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8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10 SHASHONEE SOLOMON, ) CASE NO. CV 12-8908-DMG (PJW)  
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12 ) Petitioner, ) ORDER DISMISSING SECOND OR  
13 ) v. ) SUCCESSIVE HABEAS CORPUS PETITION  
14 ) JIM HAMLET, WARDEN, ) AND DENYING CERTIFICATE OF  
15 ) APPEALABILITY  
16 ) Respondent. )  
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16 Before the Court is Petitioner's motion to set aside the Court's  
17 2005 decision denying his habeas corpus petition. *See Solomon v.*  
18 *Hamlet*, CV 02-6913-GPS (PJW). Petitioner argues that he has  
19 discovered new evidence and asks the Court to vacate that decision  
20 pursuant to Federal Rule of Civil Procedure 60(b). For the following  
21 reasons, the motion is denied and the action is dismissed.

22 To the extent that Petitioner seeks reconsideration of the  
23 Court's prior ruling, his motion is denied as untimely. A rule 60(b)  
24 motion based on newly discovered evidence must be brought within one  
25 year of the entry of judgment. *See Fed. R. Civ. Pro. 60(c)(1)*.

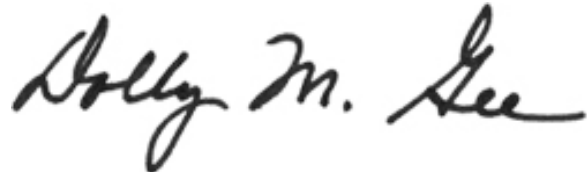
26 Construing Petitioner's motion as a new habeas petition, the  
27 Court finds that it is nevertheless subject to dismissal because it is  
28 second or successive. *See 28 U.S.C. § 2244*. Absent an order from the

1 Ninth Circuit Court of Appeals, this Court does not have jurisdiction  
2 to entertain a second or successive petition. See 28 U.S.C.  
3 § 2244(3)(A). For this reason, the Petition is dismissed.

4 Further, the Court finds that, because Petitioner has not made a  
5 substantial showing of the denial of a constitutional right or that  
6 the Court erred in its procedural ruling, he is not entitled to a  
7 certificate of appealability. See 28 U.S.C. § 2253(c)(2); Fed. R.  
8 App. P. 22(b); *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003); *Slack*  
9 *v. McDaniel*, 529 U.S. 473, 484 (2000).

10 IT IS SO ORDERED.

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12 DATED: December 28, 2012



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15 DOLLY M. GEE  
16 UNITED STATES DISTRICT JUDGE  
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